

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DELBERT MOSS)	
)	
Petitioner,)	
)	
v.)	C.A. No. 05-143 Erie
)	
SUPERINTENDENT WILSON,)	
)	
Respondent.)	

MEMORANDUM ORDER

This petition for writ of habeas corpus was received by the Clerk of Court on May 13, 2005, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The magistrate judge's report and recommendation, filed on July 31, 2006, recommended that the petition for writ of habeas corpus be dismissed as untimely and that a certificate of appealability be denied. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Petitioner by certified mail at SCI Mercer, where he is incarcerated, and on Respondent. No objections were filed. After de novo review of the petition and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this ^{6th} 29 Day of August, 2006;

IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus is DISMISSED as untimely, and that a certificate of appealability is DENIED.

The report and recommendation of Magistrate Judge Baxter, dated July 31, 2006, is adopted as the opinion of the court.


MAURICE B. COHILL, JR.
United States District Judge

cc: Susan Paradise Baxter
U.S. Magistrate Judge

all parties of record _____